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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|------------------------|---------------------|--------------------------------------|
| 10/811,667 | 03/29/2004 | Derrick Douglas Little | 9D-RG-20087 CIP | 2435 |
| 7590 | 07/20/2006 | | | EXAMINER SUERETH, SARAH ELIZABETH |
| John S. Beulick Armstrong Teasdale LLP One Metropolitan Square, Suite 2600 St. Louis, MO 63102 | | | ART UNIT 3749 | PAPER NUMBER |

DATE MAILED: 07/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|---------------------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/811,667 | LITTLE ET AL. |
| | Examiner Sarah Suereth | Art Unit 3749 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 6/26/06.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,3-16 and 18-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,3-16 and 18-30 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 10, 12, 25 and 27 are rejected under 35 U.S.C. 102(e) as being unpatentable over Taplan et al 6807962.

Taplan '962 discloses: a gas burner (12), a cooktop (1) configured to cover a burner box (Figure 1D, element 91) and having at least one peripheral vent cut (Figure 5, element 7) configured to vent outside air into the burner box to provide air for the gas burner (col. 8, line 33); and a vent trim (Figure 11, element 24) attached to said cooktop and covering the vent cut (col. 9, lines 50-53), said vent trim having a surface with openings above a top surface of the cooktop (Figure 11, also see "lattice" in col. 8, line 33), wherein said openings are configured to allow outside air to enter the vent cut through the vent trim (col. 10, line 42). Attached to the cover is a tab extending into the cavity to mount the cover onto the top face (Figure 11, left of element 25).

2. Regarding claims 10 and 25, Figure 11 clearly shows that the vent cover (24) is raised above the top surface of the cooktop (1), and therefore is capable of isolating spills from the vent cover.

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3. Regarding claims 12 and 27, the vent cut is along an edge of said cooktop exclusive of a corner of said cooktop (Figure 5).

Claim Rejections - 35 USC § 103

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 3-11, 14-16, 18-26, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taplan et al 5653219 in view of Moon et al 5808278, further in view of Taplan et al 6807962.

Taplan '219 discloses: a gas burner (3), a cooktop (2) configured to cover a burner box (5) and having at least one peripheral vent cut (8) configured to vent outside air into the burner box to provide air for the gas burner (10 is the air supply, see Figure 1); and a vent trim (15) attached to said cooktop and covering the vent cut (Figure 6a), said vent trim having a surface with openings above a top surface of the cooktop (col. 2, lines 41, 42), wherein said openings are configured to allow outside air to enter the vent cut through the vent trim (col. 2, line 49).

Regarding the limitations “peripheral” and “front side”, Taplan ‘219 discloses that the air vent can be located in various places, including on the edge of the front surface (Figure 1).

Regarding claims 10 and 25, the vent cover also has a raised surface isolating the vent opening from spills on the cooktop (col. 1, lines 49-51). Also, regarding applicant’s assertion that Taplan does not show the cover having a tab member extending into a cavity under the cover, the vertical portion of the flange (located at the numeral 18) is read as a tab extending into the cavity (Figure 6a). This portion obviously holds the air inlet device in place

Regarding claims 3, 8, 14, 18, 23 and 29, the vent trim is sealed in water-tight engagement (col. 1, lines 48).

Regarding claim 5, 9, 20, and 24, the portions of element 15 in Figure 6a that are horizontally oriented are read as the claimed clip(s).

Regarding claims 11 and 26, the cover fills the entire gap along a surface of the cooktop (col. 2, lines 14-16), so it must necessarily extend along the entire side.

Regarding claims 4, 15, 19 and 30, the seal is adhesive tape (col. 2, line 64).

5. As discussed above and noted in applicant’s remarks (page 9, third full paragraph), the Taplan ‘219 apparatus discloses the claimed invention with the exception of the vent cut defining a recessed corner.

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6. Moon et al discloses an electric stove having a recessed rear corner vent (28).

Moon does not explain the rational for placing the vent in this location, but it would have been obvious to put the vent in a convenient location, out of the user's way.

7. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Taplan '219 apparatus by moving the vent to the rear corner position as taught by Moon, in order to locate the vent out of the user's way.

8. Also, the position of the vent is not critical to the operation of the apparatus. The courts have held that rearrangement of parts does not distinguish over the prior art in cases where the operation of the device remains the same (In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950) MPEP 2144.04).

9. The Taplan '962 patent states that, although the Taplan '962 vent is designed to allow air to enter a gas cooktop, the vent is equally applicable to an electric stove (col. 10, lines 58-61), where the vent would then be used to allow vapors to escape (col. 10, lines 42,43).

10. Regarding claim 7, Moon shows one only one vent located at one rear corner, not the claimed plurality.

11. However, applicant has not demonstrated criticality for having multiple vents. The courts have held that duplication of parts for amplified effect does not distinguish over the prior art (In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960), also MPEP 2144.04 B).

In the instant case, the amplified effect would be a more effective ventilation system.

12. Claims 13 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taplan et al 6807962.

13. Regarding claim 13, Taplan '962 shows one vent cut located at an edge of the cooktop, not a plurality of vent cuts.

14. The courts have held that duplication of parts for amplified effect does not distinguish over the prior art (In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960), also MPEP 2144.04 B).

15. In the instant case, the amplified effect would be a more effective ventilation system.

Response to Arguments

16. Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection. The 102(e) rejection has been amended to address the newly claimed limitations.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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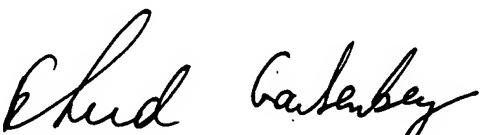
mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah Suereth whose telephone number is (571) 272-9061. The examiner can normally be reached on Monday to Thursday 7:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on (571) 272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sarah Suereth
Examiner
Art Unit 3749



EHUD GARTENBERG
SUPERVISORY PATENT EXAMINER